## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1.		A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection.  Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant to

37 CFR 1.114.  Applicant's submission filed on July 07, 2011 has been entered.  New claims 70-

73 has been added.  Claims 56-73 are now pending in the present application.

### *Response to Arguments*

2.		Applicant's arguments with respect to claims 56-73 have been considered but are moot in

view of the new ground(s) of rejection.  Arguments are directed to newly added limitations and

the new ground(s) of rejection based on the newly added limitations follow below.

### *Claim Rejections - 35 USC § 112*

3.		The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the
> subject matter which the applicant regards as his invention.

4.		Claims 62 and 69 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite

for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention.

		With respect to claim 62, applicant recites the limitation "the available memory" on line

3 of claim 62, however there is insufficient antecedent basis for this limitation in the claim.

With respect to claim 69, applicant recites the limitation "the available memory" on line

3 of claim 69, however there is insufficient antecedent basis for this limitation in the claim.

Appropriate correction is required.

*Claim Rejections - 35 USC § 102*

5.      The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6.      Claims 56, 62, 63 and 69-71 are rejected under 35 U.S.C. 102(b) as being anticipated by

**Hansson, U.S. Patent Number 6,023,620 (hereinafter Hansson).**

Regarding claim 56, Hansson discloses a method of updating a mobile device having a

baseline configuration (e.g., a software currently used by a cellular telephone 110) stored in a

mobile device memory (e.g., a first memory 130 for storing a software currently used or original

software loaded at the factory) (see col. 2, lines 24-39, col. 3, lines 42-45 and figs. 1 & 2),

comprising:

transmitting from the mobile device to an update management computing device (e.g., an

update server processor 100), a request for update data for performing an update of the baseline

configuration to create an updated configuration (e.g., cellular telephone 110 transmits a SMS

message to the update server processor 100 with an acceptance code to request a software

download) (see col. 2, lines 56-60, col. 3, lines 51-55 and fig. 2; step 220), the baseline

configuration being stored in a first area of the mobile device memory (i.e., the currently used

software is stored in a first memory 130 of the cellular telephone 110) (see col. 2, lines 24-39,

col. 3, lines 42-45 and fig. 1; memory 130);

receiving, at the mobile device, the update data from the update management computing

device in response to the transmitted request for update data (i.e., in response to receiving the

acknowledgment from the cellular telephone 110, the update server processor 100 begins

downloading the new version of the software to the cellular telephone) (see col. 3, lines 1-4 &

61-63 and fig. 2; step 250);

creating, with the received update data, the updated configuration in a second area of the

memory while the baseline configuration remains selectable for execution in the first area of the

memory (i.e., controller 140 places the newly downloaded software version in a second memory

location 150) (see col. 4, lines 29-31), yielding two manually selectable configurations for

execution, the original baseline configuration stored in the first area and the updated

configuration stored in the second area (i.e., the controller 140 can toggle between the two

memories 130 and 150 to yield two manually selectable software versions, thereby designating

the formerly active memory as inactive, and conversely designating the formerly inactive

memory as active) (see col. 2, lines 23-40, col. 3, lines 14-21 and col. 4, lines 44-50).

Regarding claim 63, Hansson discloses a mobile device (e.g., cellular telephone 110) (see

fig. 1) comprising: one or more processors (e.g., controller 140) (see col. 2, lines 10-18 and fig.

1); a memory (e.g., memory 130 & 150) (see col. 2, lines 18-19 and fig. 1); and update manager

software stored on the memory and executable by the one or more processors, when executed by

the update manager software being configured to:

store in a first area of the memory of the mobile device, a baseline mobile device

configuration (i.e., the currently used software is stored in a first memory 130 of the cellular

telephone 110) (see col. 2, lines 24-39, col. 3, lines 42-45 and fig. 1; memory 130);

receive, from an update server (e.g., an update server processor 100), update data for

performing an update of the baseline configuration to create an updated configuration (i.e., in

response to receiving the acknowledgment from the cellular telephone 110, the update server

processor 100 begins downloading the new version of the software to the cellular telephone) (see

col. 3, lines 1-4 & 61-63 and fig. 2; step 250);

creating, with the received update data, the updated configuration in a second area of the

memory while the baseline configuration remains selectable for execution in the first area of the

memory (i.e., controller 140 places the newly downloaded software version in a second memory

location 150) (see col. 4, lines 29-31), yielding two manually selectable configurations for

execution, the original baseline configuration stored in the first area and the updated

configuration stored in the second area (i.e., the controller 140 can toggle between the two

memories 130 and 150 to yield two manually selectable software versions, thereby designating

the formerly active memory as inactive, and conversely designating the formerly inactive

memory as active) (see col. 2, lines 23-40, col. 3, lines 14-21 and col. 4, lines 44-50).

Regarding claims 62 and 69, Hansson teaches all the limitations of claims 56 and 63. In

Hansson teaches a method, wherein the updating the mobile device with the received update data

further comprises copy-on-write of stored baseline configuration data stored into the available

memory of the mobile device (i.e., the currently used software is stored in a first memory 130 of

the cellular telephone 110) (see col. 2, lines 24-39, col. 3, lines 42-45, col. 4, lines 45-49 and fig.

1; memory 130).

Regarding claim 70, Hansson teaches all the limitations of claim 56. In addition,

Hansson teaches after said creating: entering a manual selection whether or not to set the updated

configuration as the new baseline configuration; if the manual selection is to set the updated

configuration as the new baseline configuration, then setting the updated configuration as the

new baseline configuration by the copying the updated configuration over the baseline

configuration (e.g., using the newly downloaded software in place of the older software) (see col.

2, lines 23-40, col. 3, lines 14-21 and col. 4, lines 27-50).

Regarding claim 71, Hansson teaches all the limitations of claim 56. In addition,

Hansson teaches after said creating: entering a manual selection whether to set the updated

configuration as the new baseline configuration; if the manual selection is to set the updated

configuration as the new baseline configuration, then setting the updated configuration as the

new baseline configuration by referencing the updated configuration's location in the second area

of the second mobile device memory as the new baseline configuration instead of the previous

location of the previous baseline configuration (e.g., designating the formerly active memory as

inactive, and conversely designating the formerly inactive memory as active) (see col. 2, lines

23-40, col. 3, lines 14-21 and col. 4, lines 42-50).

### *Claim Rejections - 35 USC § 103*

7.      The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459

(1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating obviousness or nonobviousness.

8.     Claims 57-58 and 64-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over

**Hansson, U.S. Patent Number 6,023,620 (hereinafter Hansson)** as applied to claims 57 and 64

above, and further in view of **Chen et al., U.S. Publication Number 2005/0114852 A1**

**(hereinafter Chen)**.

Regarding claims 57-58 and 64-65, Hansson teaches all the limitations of claims 56 and

63, but fails to explicitly teach determining, during initialization of the mobile device, whether

an update flag is set, if the update flag is not set, then reverting to the baseline mobile device

configuration; and if the update flag is set, then evaluating the update data to determine whether

it contains valid update data.

In an analogous field of endeavor, Chen teaches when an electronic device is initialized,

an update status indicator is evaluated to determine whether an update package is present, if no

update package is present and/or no update is currently to be performed, the electronic device

may initiate normal operation (see p. 9 [0122]). Chen further teaches, if an update package is

detected based upon evaluation of the update status indicator, the update agent may be validated,

and if the update agent is determined to be valid, i.e., operable and/or un-corrupted, the update

may proceed to branch to the update agent, wherein the update may be performed (see p. 9

[0123]).

It would therefore have been obvious to one of ordinary skill in the art at the time of the

invention to modify Hansson with the teachings of Chen, in order to indicate that a software

update is present and whether the software to be updated is valid and capable of being updated as

taught by Chen (see p. 1 [0012-0013]).


9.      Claims 59-61, 66-68 and 72-73 are rejected under 35 U.S.C. 103(a) as being unpatentable

over **Hansson, U.S. Patent Number 6,023,620 (hereinafter Hansson)** as applied to claims 56

and 63 above, and further in view of **O'Neill et al., U.S. Publication Number 2004/0068721 A1**

**(hereinafter O'Neill)**.

Regarding claims 59, 66 and 72, Hansson teaches all the limitations of claim 56 and 63,

but fails to explicitly teach identifying database data stored in the mobile device memory that

may be purged to make available a minimum threshold amount of memory in the mobile device

memory; determining whether the identified data is also stored on a remote storage device

accessible by the mobile device over a communication; based on a determination that the

identified data is not stored on the remote storage device, transmitting the identified data to the

remote storage device for storage; and purging the identified data from the mobile device

memory.

In an analogous field of endeavor, O'Neill teaches a download agent of a wireless

communication device employs an upload agent to remove portions of existing software from

non-volatile or volatile memory of a wireless communication device, in order to free up memory

space for proper processing of downloaded software updates (see p. 5 [0044]). According to

O'Neill, such removed portions of software may be selectively reinstated later, as necessary, in

order to restore any functionality associated with the wireless communication device prior to an

update process, and the removed portions may be temporarily stored remotely within other types

of storage devices located within a distribution environment (see p. 5 [0044]). O'Neill further

teaches reshuffling portions of existing software frees up memory space for effectively

processing of downloaded software updates during the software update process (see p. 5 [0044]).

It would therefore have been obvious to one of ordinary skill in the art at the time of the

invention to apply the teachings of O'Neill to Hansson for the purpose of realizing the aforesaid

advantage.

Regarding claims 60 and 67, Hansson in view of O'Neill teaches all the limitations of

claims 59 and 66. Hansson in view of O'Neill further teaches transmitting a request from the

mobile device to the remote storage device for transmission of the identified data from the

remote storage device to the mobile device; receiving the identified data from the remote storage

device in response to the transmitted request; and storing the identified data in the mobile device

memory (see *O'Neill*, p. 5 [0044] and p. 6 [0049]).

Regarding claims 61 and 68, Hansson in view of O'Neill teaches all the limitations of

claims 60 and 66. Hansson in view of O'Neill further teaches wherein the remote storage device

comprises the server (e.g., a remote storage device located within a distribution environment)

(see *O'Neill*, p. 5 [0044]).

Regarding claim 73, Hansson in view of O'Neill teaches all the limitations of claim 72. Hansson in view of O'Neill further teaches wherein a database file stored on the mobile device is to be re-indexed as a result of the update, and the method further includes: forwarding the database file to the update server for the database file to <u>be re-indexed by</u> the update server; and receiving the re-indexed database file back from the update server (e.g., O'Neill teaches a download agent employs an upload agent to remove portions of existing software from non-volatile or volatile memory of the wireless communication device, in order to free up memory space for proper processing of downloaded software updates, and the removed portions of software may be remotely stored within other types of storage devices located within a distribution environment. Thus, re-indexing a database file stored on the mobile device as a result of the update is broadly interpreted as remotely storing or temporarily reshuffling portions of existing software in the wireless communication device in order to effectively process the software update during the software update process) (see *O'Neill*, p. 5 [0042 & 0044]).

## *Conclusion*

10.     The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kilmartin, U.S. Patent Number 7,752,185 discloses system and method to perform data indexing in a transaction processing environment.

Gross et al., U.S. Patent Number 7,370,035 discloses method and systems for search indexing.

11.     Any inquiry concerning this communication or earlier communications from the

examiner should be directed to ANTHONY ADDY whose telephone number is (571)272-7795.

The examiner can normally be reached on Mon-Thur 8:00am-6:30pm.

        If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Kamran Afshar can be reached on 571-272-7796.  The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

        Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system.  Status information for published applications

may be obtained from either Private PAIR or Public PAIR.  Status information for unpublished

applications is available through Private PAIR only.  For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


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